IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5745 OF 2004

Fulkali Motilal Gupta and Anr. .. Petitioners

Vs.

Mumtaz Begum Turab Shaikh
(Deceased) and Ors. .. Respondents

WITH

WRIT PETITION NO.6343 OF 2004

Fulkali Motilal Gupta and Anr. .. Petitioners

Vs.

Sayad Ayub Solapurkar
(Deceased) and Ors. .. Respondents

Ms.Gauri Godse for the petitioners

Mr.V.P.Patil for respondent no.2

Mr.R.A.Karale for respondent no.1(A) to 1(C)

CORAM : S.U.KAMDAR, J
DATED : 29TH NOVEMBER, 2005

P.C.:

1. In the present proceedings, the petitioners have challenged the orders passed by the revenue authorities deleting the name of the petitioners

merely on the ground that the lease in favour of the petitioners have come to an end by afflux of time. The only ground of challenge is that there is already a civil proceeding pending before the Civil Court pertaining to the said lease. It is the case of the petitioners that the said lease is continued by the landlord by accepting rent from them even after the expiry of the period of lease deed and therefore lease is valid and subsisting. In view thereof, the order passed by the lower authorities is illegal and without authority of law.

2. I have perused the order passed by the revenue authorities. The suit which was preferred by the petitioners before the Trial Court has already been dismissed and the appeal against the said order is pending in this court. Revenue Authorities have in the order observed that if any final orders are passed by the High Court, revenue record will be accordingly corrected and the decision of the revenue authorities will be subject to final decision pending before the high court. I do not find any ground to interfere with merely on the

ground of pending appeal in this court. It goes without saying that any change effected in the revenue record will abide the final decision which may be taken in civil proceeding in substantive suit preferred by the petitioners and an appeal therefrom preferred by the respondents. It is made clear that order of status quo is not effected and the petitioners possession in the said property will be governed by the orders passed in the said pending appeal. Both the petitions are disposed of accordingly. No orders as to costs.